

REMARKS

Claims 1-29 are pending in this application. By this Amendment, claims 1, 12 and 17 are amended and claim 29 is added. No new matter is added. Claim 1 is the independent claim.

Applicant notes with appreciation the Examiner's acknowledgement that certified copies of all priority documents have been received by the U.S.P.T.O.

Allowable Subject Matter

Claims 15, 18-20 and 26 are indicated as being allowable if rewritten in independent form to include all of the features of their base claim and any intervening claims. Claims 15, 18-20 and 26, as well as the remaining pending claims, are allowable for the reasons discussed below.

Specification

The specification is alleged to not contain an abstract of the disclosure as required by 37 CFR §1.72(b). However, as the published application (US Patent Application Publication 2006/0004354) includes an abstract, the submission of an abstract is not necessary.

Rejections under 35 U.S.C. § 112

Claims 12 and 17 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully traverses this rejection for the reasons detailed below.

As claims 12 and 17 are amended to remove the recitation of the phrase "if any," the claims are believed to be definite and clear. Therefore, withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. § 102

Claims 1-7, 10-14, 16, 17 and 21 are rejected under 35 U.S.C. § 102(b) as being clearly anticipated by Suslov (US Patent 5,843,079). Applicant respectfully traverses this rejection for the reasons detailed below.

Anticipation requires that each and every element of the rejected claims is found, either inherently or expressly described in a single prior art reference (MPEP § 2131). Further, in rejecting claims for want and novelty or for obviousness, the Examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the Applicant, the particular part relied on must be designated as nearly as practicable (emphasis added). The pertinence of each reference, if not apparent, must be clearly explained in each rejected claim specified (37 CFR § 1.104).

However, in the outstanding rejection of the pending claims, no corresponding structure in Suslov is alleged to compare to the subject matter recited in the rejected claims. Rather, only broad reference is made to Figs. 6 and 7 and “their accompanying description” are pointed out in the Office Action. Notwithstanding the deficiencies of the Office Action in failing to point out corresponding structure and clearly explain the pertinence of the reference in rejecting the claims, Applicant submits that Suslov fails to disclose each and every feature recited in the rejected claims.

For example, Suslov fails to disclose a plasma surgical device for reducing bleeding in living tissue by means of a gas plasma, comprising... a plasma-generating system being enclosed by a housing of an electrically conductive material, which is connected to an anode, wherein the housing forms the gas supply channel.

Suslov, which is disclosed in the Background Art section of the present application and therefore includes the problems being addressed in the present application, relates to a plasma

surgical device. The device has an electrically conductive body 6 that includes a cylindrical channel formed by channel sections 8, 9, 10 to heat the plasma-generating gas. The conductive body 6 is isolated from cooling channels 12 by an isolated concentric bush 11. A first channel section 8 is configured as a hollow cylinder electrode which is connected the body 6 by the bush 11 and with cathodes 13, 14 via an electrically isolated sealing bush 15 (column 8, lines 25-57; Fig. 6, 6A).

The cathode consists of electrically conductive tube 14 on one end of the electrode 13. The opposite end of the electrically conductive tube 14 of the cathode serves as a connection to the gas supply unit and is connected with the negative poles of the basic energy source of the trigger system of the microplasmatron. The electrically conductive tube 14 is formed with hole 16 for input and uniform distribution of the plasma-generating gas to the discharge chamber of the microplasmatron (column 8, line 60 through column 9, line 3).

Thus, as pointed in the Background Section of the present application, and clearly described in Suslov, the gas is supplied to the plasma-generating system through the tube of the cathode 13. Accordingly, Suslov fails to disclose that the housing forms the gas supply channel, as recited in the rejected claims. Because Suslov fails to disclose each and every feature recited in the rejected claims, withdrawal of the rejection is respectfully requested.

Rejections under 35 U.S.C. § 103

Claims 8, 9 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Suslov (US Patent 5,843,079) in view of Coucher (US Patent 3,938,525). Applicant respectfully traverses this rejection for the reasons detailed below.

Neither Suslov nor Coucher, whether considered alone or in combination, disclose or suggest each and every feature recited in the rejected claims. Moreover, claims 8, 9 and 23 are allowable for their dependency on their independent base claim for the reasons discussed above,

as well as for the additional features recited therein. As Coucher fails to disclose or suggest a plasma surgical device comprised of a housing that forms the gas supply channel, Coucher fails to overcome the deficiencies of Suslov. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 22, 24, 25, 27 and 28 are rejected under 35 USC § 103(a), as being unpatentable over Suslov in view of US Patent 3,434,476 to Shaw et al. (Shaw). The rejection is respectfully traversed.

Claims 22, 24, 25, 27 and 28 are allowable for their dependency on independent claim 1 for the reasons discussed above, as well as for the additional features recited therein.

Additionally, as discussed above, when rejecting claims for want of novelty or for obviousness the Examiner must designate the particular part relied upon as nearly as practicable to support the rejection of the claim and the pertinence of each reference, if not apparent must be clearly explained and each rejected claim specified (37 CFR § 1.104). However, in the rejection of claims 22, 24, 25, 27 and 28, it is merely alleged in the Office Action that “Suslov fails to disclose the particular couplings and handle structure with switches” and that “such features are shown by Shaw et al. as being conventional in the art.” Thus, the features of Shaw that are alleged to correspond to the claim features are not pointed out or “designated as nearly as practicable” in the Office Action. As such, a *prima facie* case of obviousness is not been established.

Moreover, the combination of references fails to disclose each and every feature recited in the rejected claims. For example, Shaw fails to disclose or suggest a handle portion that at least partially encloses the housing to allow easy handling of the device, as recited in rejected claim 25. Rather, Shaw merely discloses a conductive outer layer 17 the outer surface of which

forms the exterior of the cylindrical housing 10. Thus, there is no disclosure or suggestion of a handle portion that encloses the housing.

As the combination of references fails to disclose or suggest all of the features recited in the rejected claims, withdrawal of the rejection is respectfully requested.

CONCLUSION

In view of the above remarks and amendments, the Applicant respectfully submits that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

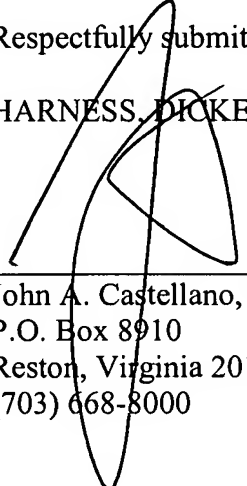
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By



John A. Castellano, Reg. No. 35,094
P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

JAC/JWF:bmd